

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: HB 2005 - A4

82nd Oregon Legislative Assembly – 2023 Regular Session

Legislative Fiscal Office

Only Impacts on Original or Engrossed Versions are Considered Official

Prepared by: Emily Coates

Reviewed by: Amanda Beitel, John Borden, John Terpening, Tim Walker, Michelle Deister, Julie Neburka, Kim To, Paul Siebert, Ben Ruef

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Defines "undetectable firearm." Punishes manufacturing, importing, offering for sale, or transferring undetectable firearms. Authorizes specific governing bodies that own or control public buildings to adopt policy, ordinance, or regulation for precluding affirmative defense for possession of firearms in public buildings and adjacent grounds. Prohibits person under 21 years of age from possessing firearms.

Government Unit(s) Affected:

Cities, Counties, Criminal Justice Commission, Department of Corrections, Department of Justice, Department of State Police, District Attorneys, Judicial Department, Public Defense Services Commission, Board of Parole and Post-Prison Supervision, Statewide, Oregon Youth Authority, Burns Paiute Tribe, Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians, Confederated Tribes of Grand Ronde, Confederated Tribes of Siletz, Confederated Tribes of Umatilla Indian Reservation, Confederated Tribes of Warm Springs, Coquille Indian Tribe, Cow Creek Band of Umpqua Indians, Higher Education Coordinating Commission, Klamath Tribes, Oregon Liquor and Cannabis Commission, Oregon Military Department, School Districts, Special Districts Association of Oregon, Bureau of Labor and Industries

Summary of Fiscal Impact:

Costs related to the measure may require budgetary action - See analysis.

Summary of Expenditure Impact:

	2023-25 Biennium	2025-27 Biennium
Department of State Police		
General Fund		
Personal Services	\$326,816	\$326,816
Services and Supplies	\$30,000	\$30,000
Total Fiscal Impact	\$356,816	\$356,816
<i>Total Positions</i>	2	2
<i>Total FTE</i>	2.00	2.00

Analysis:

The measure creates crimes relating to undetectable firearms, firearms that do not have a serial number, or unfinished frames or receivers. In each case, the crime-seriousness is elevated if a person has prior convictions for any of these crimes.

For undetectable firearms, it is a Class A misdemeanor for possession and a Class B felony for the manufacture, import, sale or transfer, and for possession if the person has prior convictions. For firearms without serial numbers, it is a Class B violation for possession, sale, or transfer unless specific exceptions are met; elevated to a Class A misdemeanor for possession when there is a prior conviction; and elevated to a Class B felony for two or more prior convictions. For unfinished frames or receivers, it is a Class B violation to import, sell or transfer unless the person is a licensed firearms dealer or other certain exceptions are met. This is elevated to a Class A misdemeanor if there are prior convictions, and a Class B felony if more than two prior convictions.

In addition, the measure expands the current crime of unlawful possession of a firearm, a Class A misdemeanor, to include if a person possesses an unfinished frame or receiver without a permit; and increases the age limit of unlawful possession from 18 to 21. The measure expands the definition of “public building” under ORS 166.360 to include the adjacent grounds where possession of a firearm would be a Class C felony or a Class A misdemeanor if the person had a valid concealed handgun license. Lastly, the measure permits the governing body of a municipal corporation to adopt a policy that restricts possession of firearms in their public buildings and requires them to post visible signs at entrances to buildings and grounds.

Provisions of the measure related to any prohibitions for firearms that do not have a serial number and unfinished frames or receivers are operative September 1, 2024. The measure declares an emergency and is effective upon passage.

Oregon State Police (OSP)

The measure includes purchasers of unfinished frames or receivers under statutes that require gun dealers to request background checks from OSP. The agency estimates approximately 1,000 additional background checks related to unfinished frames or receivers will occur per year, or 2,000 per biennium. OSP anticipates needing two Public Service Representative 4 positions (2.00 FTE) to address the additional background checks, resulting in a total fiscal impact of \$356,816 for two positions and associated costs in the 2023-25 and 2025-27 biennia.

Currently, the Firearms Instant Check System (FICS) unit within OSP has a backlog of approximately 29,000 background checks related to firearms purchases. The agency received an additional 17 limited duration positions in the 2021-23 biennium to help address this issue, however, the current backlog is unlikely to be remedied by 2023-25 when those positions phase out. As a result of this measure, and to address the current backlog expected to continue into 2023-25, the Department anticipates needing a total of 19 positions including 14 Public Service Representative 4 positions, four Office Specialist positions, and one Business Operations Supervisor. The continuation of the 17 positions needed to address existing workload will be considered as part of the agency’s budget for the 2023-25 biennium.

Department of Corrections (DOC)

The overall fiscal impact for DOC is minimal. DOC reports the fiscal impact of the measure is \$5,051 General Fund for prison costs and special payments to community corrections for the 2023-25 biennium and \$71,320 General Fund for prison costs and special payments to community corrections for the 2025-27 biennium.

According to 2022 sentencing data provided by the Criminal Justice Commission (CJC) on convictions for a felon with a weapon, the Commission anticipates the measure will result in an additional 5 convictions per year, or 10 additional convictions in the 2023-25 biennium. CJC estimates that 36% of new convictions will be sentenced to a DOC facility, with an average sentence length of 17.9 months, 16% of new convictions will be sentenced to community corrections, with an average sentence of 2.2 months, and 48% of the new convictions will be sentenced to probation, with an average sentence length of 36 months.

DOC assumes a three-month lag between the measure’s effective date and the date by which offenders may be received. The anticipated population increase from this measure would not require increased staffing, so the estimated marginal cost per day is \$24.30 per offender at a DOC facility and \$13.83 per offender on probation.

HB 3194 (2013) requires a 10-year estimate of the fiscal impact for measures with an effect on crimes and sentencing. Using the conviction rate assumptions listed above, DOC anticipates the costs for the 2027-29 biennium to be \$145,110 General Fund, \$165,587 General Fund in 2029-31, and \$167,095 General Fund in 2031-33. The Legislative Fiscal Office notes that these cost estimates could vary depending on the actual number of criminal cases, convictions, and length of sentences issued.

Public Defense Services Commission (PDSC)

The fiscal impact to PDSC is indeterminate. The new misdemeanor and felony crimes created by the measure, though similar to existing crimes charged under current law, are likely to increase public defense costs due to the change in crime-seriousness categories. PDSC is unable to estimate the impact of the measure at this time, but the measure is anticipated to increase costs once actual caseloads are identified.

Other State Agencies

There is a minimal fiscal impact for DAS and ODOT for additional signage at all entries of public buildings and adjacent grounds. All other responding agencies reported the fiscal impact of the measure will be minimal or no impact.

This measure has a subsequent referral to the Joint Committee on Ways and Means for consideration of its budgetary impact on the State's General Fund.